REMARKS

In response to the Office Action dated December 15, 2008 rejecting all of the pending claims, Applicant submits the foregoing amendments and the following remarks. Specifically, claims 1 and 8 have been amended to include subject matter previously called for in claim 7, which has been cancelled. Thus, after entry of these amendments, claims 1-6 and 8-10 will be pending and are presented for further examination. Reconsideration of the patentability of these claims is respectfully requested.

In the final Office Action, claims 1, 4-6 and 8-9 were rejected under 35 U.S.C. §103(a) as being obvious over U.S. Pat. No. 3,412,515 to Finon ("Finon") in view of U.S. Pub. No. 2004/0010998 to Turco ("Turco"). Claim 2 was rejected as being obvious over Finon in view of Turco and further in view of U.S. Pat. No. 6,170,214 to Treister et al. Claims 3 and 10 were rejected as being obvious over Finon in view of Turco and further in view of U.S. Pub. No. 2005/0097841 to Milligan et al. Claim 7 was rejected as being obvious over Finon in view of Turco and further in view of U.S. Pat. No. 3,363,381 to Forrest ("Forrest"). Applicant respectfully submits that the pending claims, as amended, are patentably distinct from the art of record.

Independent claim 1 now calls for, among other things, that the distance between the outer surfaces of the flanges of the second support member is less than the distance between the outer surfaces of the flanges of the first support member such that when the support members orthogonally abut, i.e., the outer surface of the longer inner flange of the second support member rests on an inner surface of the longer inner flange of the first support member, the outer surfaces of the shorter outer flanges of both support members are substantially coplanar while the outer surface of the longer inner flange of the second support member is offset by the thickness of the longer inner flange of the first elongate support member (supported by original claim 7 and Fig. 4).

Independent claim 8 now calls for, among other things, a first and second elongate support member, where the outer surfaces of the second elongate support member are planar (supported by original claim 7, Fig. 4, and ¶ [0028]). The distance between the planar outer surfaces of the flanges of the second elongate support member is less than the distance between the outer surfaces of the of the

flanges of the first elongate support member. When the two support members are fastened to a building or building frame in an orthogonal manner, a portion of the planar outer surface of the inner flange of the second support member rests on the inner surface of the inner flange of the first support member. Because of the difference in distance between the outer surfaces of the two support members, the outer surfaces of the outer flanges of the first and second support members are substantially coplanar.

The December 15, 2008 Office Action admitted that neither Finon nor Turco disclose a second elongate support member having a smaller distance between the outer surfaces of the longer inner and shorter outer flanges. To remedy this deficiency, the Office Action cited to Forrest and specifically, the overlapping flanged parts 40, 42 between adjacent panels 10, 12. The rationale given for modifying the combination of Finon and Turco, i.e., "to include adjacent panel support members with height adjustments as taught by Forrest" is so that when the panels overlap, "they may remain on the same plane." See December 15, 2008 Office Action, page 9.

Applicant respectfully asserts that a person of ordinary skill in the art would not be motivated to modify the combination of Finon and Turco with Forrest for this or any other rationale and arrive at the present invention. Furthermore, Forrest actually teaches away from the present invention in that it is undesirable to have the outer surfaces of the longer inner flanges of the first and second elongate support members and the outer surfaces of the shorter outer flanges both be co-planar as taught by Forrest.

Applicant agrees with the summary of Forrest found on page 9 of the December 15, 2008 Office Action:

> Forrest discloses a modular panel apparatus including means for joining adjacent panels together in an edge to edge relationship (col. 1, lines 12-14) whereby the flanged part 42 is recessed as to 44, from the bottom surface 24 by a distance at least equal to the thickness of the flanged part 40 whereby the flanged parts 40, 42 may overlap and engage each other with the bottom surfaces of each panel being substantially in the same plane (col. 2, lines 45-50; figure 1).

However, Applicant respectfully disagrees with the conclusion that it would be obvious to "modify the...panel support members of the Finon and Turco combination to include adjacent panel support members with *height adjustments as taught by*

Forrest so that when the panels overlap, they may remain on the same plane" (emphasis added). December 15, 2008 Office Action, p. 9. First, Forrest is directed to modular panels that can be locked together so as to form a barrier such as a wall. There is no reason why a person of ordinary skill in the art would look to Forrest to modify a cladding system having overlapping elongate support members. Further, the "height adjustments" taught by Forrest are merely conventional overlapping flanges and do not form part of the claimed invention. Finally, both outer surfaces 16, 18, 22, 24 of the panels of Forrest 10, 12 are substantially coplanar which, as explained below, is undesirable and not part of the claimed invention.

As shown in Figure 4 of the present application, only one set of outer surfaces, i.e., the shorter outer flanges 22, 52, are coplanar. The outer surface of the larger inner flange 52 of the second support member 50 is actually offset from the wall 11 by the height of the longer inner flange 22 of the first support member 20. By floating the second support member 20 slightly above the wall 11, bumps and other distortions present in the building or building frame that could prevent the coplanar relationship of the shorter outer flanges 22, 52 are avoided. Thus, Forrest actually teaches away from the claimed invention by teaching that the overlapping portion, i.e., flanged part 44 (Forrest, Fig. 1), is recessed such that both outer surfaces 16, 18, 22, 24 of both panels 10, 12 are substantially coplanar.

A person looking to have a cladding system with overlapping elongate support members and coplanar shorter outer flanges 22, 52 (present application, Fig. 4) would avoid the recessed flange of Forrest as they would not want both inner longer flanges 26, 27, 51 coplanar and flush with the wall 11. Rather, and as called for in claims 1 and 8, the longer inner flange 51 of the second support member 50 is planar (rather than having a recessed flange) such that the outer surface of the longer inner flange 51 is <u>not</u> coplanar with the outer surface of the longer inner flange 26, 27 of the first support member 20 but is instead displaced from the wall 11 by the thickness of the inner flange 26, 27.

For at least these reasons, claims 1 and 8 are patentably distinct from the art of record. Accordingly, claims 2-6, 9, and 10 are patentably distinct at least pursuant to the chain of dependency. However, Applicant asserts that these claims include

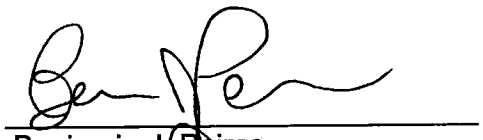
subject matter that is further distinguishable from the art of record beyond the chain of dependency.

In light of the foregoing, Applicant requests a Notice of Allowance. A Request for Continued Examination Transmittal form and the appropriate fees are submitted herewith. The Examiner is invited to contact the undersigned if it is believed that doing so would aid in furthering the allowance of the pending claims.

Respectfully submitted,

Angelo Michael Turco

Date: March 16, 2009

By: 

Benjamin J. Peirce
Reg. No. 60,481
Attorney for Applicant
Quarles & Brady LLP
411 E. Wisconsin Avenue
Milwaukee WI 53202-4497
Ph: (414) 277-5249